

**To:** StClair, Christie[StClair.Christie@epa.gov]  
**Cc:** Berzon, Alexandra[Alexandra.Berzon@wsj.com]  
**From:** Frosch, Dan  
**Sent:** Thur 8/27/2015 2:46:03 PM  
**Subject:** Fact Checking

Hey Christie,

Just want to make sure the following is accurate.

1. The tax on polluters that fed the Superfund Trust Fund expired in 1995, correct?
2. And the balance of that fund, according your numbers, dropped to \$0 in FY 2003, correct?

Many thanks!

DF

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**From:** StClair, Christie [mailto:StClair.Christie@epa.gov]  
**Sent:** Wednesday, August 26, 2015 5:05 PM  
**To:** Berzon, Alexandra; Frosch, Dan  
**Subject:** EPA GKM responses

**FOR ALEXANDRA BERZON**

**Question 11) I have seen several reports from the EPA from recent years explaining the Red and Bonita mine cleanup plan. However, I can't find any official documents that mention Gold King as part of that cleanup. Can you please refer me to any planning documents for Gold King work and also explain how Gold King came about – was it part of the same work being done on Red and Bonita mine cleanup? Why was it not initially mentioned in planning documents? Was that work added later on in the process and if so when and why?**

**Response:** Documents related to the Gold King Mine were recently posted on: <http://www2.epa.gov/goldkingmine/epa-posts-gold-king-mine-file-documents>.

Documents related to the Red and Bonita mines were posted on: <http://www2.epa.gov/goldkingmine/red-and-bonita-administrative-record>

While the Gold King and Red and Bonita Mines workings were not known to be connected, there was concern that bulkheading the Red and Bonita mine could have increased the discharge from the Gold King. According to the 2007 Report of Structural Geographic Investigation for the Red and Bonita Mine (administrative record for Red and Bonita removal action), prepared by the Colorado Division of Reclamation Mining and Safety (DRMS), “one major concern is the unknown groundwater inter-connectivity between the R & B workings and the nearby Gold King Mine. Although there are no known man made connections such as drill holes, raises or stopes, without direct knowledge of the final configuration of the workings, these types of connections could exist. It is more likely that there are at least a few deep, discreet groundwater-bearing structures that are intersected by both mines, and therefore it is possible that plugging the R & B adit level could force the local groundwater system to refill and rise high enough along these pathways such that discharge increases at the Gold King portals.” The investigation of the Gold King was anticipated to explore this concern, and better understand how the bulkheading of the Red and Bonita affected the water within the Gold King.

**Question 12) Also even though the \*documents\* mentioned in questions 1, 6, 7 and 8 must be obtained through FOIA, can you please answer these \*questions\* for #7:**

**Please describe the recent settlement negotiations between the EPA and Sunnyside mine. Has there been a resolution? When was the most recent set of talks or exchange of documents or emails with Sunnyside and what was said? How much money did the EPA (prior to the latest mine spill) think Sunnyside should pay for cleanup? "- Note from PIO: Same questions submitted previously, as part of Question 7. EPA previously determined that a FOIA request would be**

needed to respond to these questions.

**Sunnyside has said that it set aside \$10 million to pay for a new water treatment plant and for the plant to operate for 20 years but the EPA would have to agree that it has no further liability. Has this plan been presented to the EPA? Has the EPA agreed to this or is it still considering the plan? If it has said that it would not agree to this, why not?**

**Response:** There has been no negotiated settlement reached. Sunnyside Gold Corporation did offer in 2014 to contribute \$10 million to improve the water quality of the Animas River in exchange for a release from further liability. It is premature to settle liability of a PRP, such as Sunnyside, before there is a better understanding of which mines and mine-related sources of pollution contribute to the overall problem in the Animas River, and who is responsible for the sources of pollution. Subsequently, EPA, BLM, and the State of Colorado have requested that Sunnyside Gold Corporation conduct additional investigations.

FOR DAN FROSCH

**1. What has EPA's annual appropriation been for Superfund over the past decade (by year)?**

**Answer:**

The Superfund annual enacted appropriation for FY 2006-2015 is presented below.

<b>Fiscal Year</b>	<b>Hazardous Substance Superfund Enacted Appropriation in Millions</b>
2006	\$1,235.0
2007	\$1,255.0
2008	\$1,254.0
2009*	\$600.0
2009	\$1,285.0
2010	\$1,307.0

2011	\$1,280.9
2012	\$1,213.8
2013	\$1,113.3
2014	\$1,088.8
2015	\$1,088.8

\*Represents the American Recovery and Reinvestment Act of 2009 resources

## 2. How has the expiration of the Superfund tax in 1995 impacted that funding stream?

**Answer:** The Superfund appropriation is determined by Congress annually. The annual appropriation is funded by a combination of General Revenues and resources in the Superfund Trust Fund. The revenues from the Superfund taxes placed in the Superfund Trust Fund provided a dedicated source of funds for the Superfund program, but historically the Superfund program appropriation levels have not been contingent on the Trust Fund balance, which has had end of year balances ranging from \$4 billion (FY 1996) to \$0 (FY 2003).

## 3. Does EPA have cost projections on Superfund cleanups (hardrock mining specific)? And do those projections exceed current funding levels?

### Response:

EPA is applying its resources across the remedial site cleanup pipeline to advance site work that has been delayed due to previous budget reductions. Achieving a number of Superfund performance measure targets will remain a challenge given the lagging effects of resource reductions. Cost projections are difficult in this area and EPA's Superfund Program is only one of the federal programs, as well as state programs, that are involved. EPA's Office of the Inspector General Evaluation Report: *Nationwide Identification of Hardrock Mining Sites* (March 2004) states that "We [OIG] identified 156 hardrock mining sites nationwide that have the potential to cost between \$7 billion and \$24 billion total to clean up...These costs are over 12 times EPA's total annual Superfund budget of about \$1.2 billion for the last 5 years."

## 4. Finally, was hoping to have someone address the status of the CERCLA rulemaking process for hardrock mining responsibility.

**Response:** EPA is developing a proposed regulation for financial responsibility for certain hard rock mines and mineral processing facilities under Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA is continuing to work on the rulemaking.